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FISCAL IMPACT STATEMENT

LS 6812 | **NOTE PREPARED:** Jan 20, 2014
BILL NUMBER: HB 1406 | **BILL AMENDED:**

SUBJECT: Application of Federal Affordable Care Act.

FIRST AUTHOR: Rep. Harman | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
X **DEDICATED**
X **FEDERAL**

Summary of Legislation: This bill prohibits state action related to enforcement or implementation of the federal Patient Protection and Affordable Care Act (PPACA).

The bill requires the Attorney General to file a civil action for injunctive relief in certain circumstances.

The bill also requires a tax deduction for taxpayers paying a penalty in relation to PPACA.

It repeals a provision concerning application for a state innovation waiver under PPACA.

Effective Date: Upon passage; January 1, 2014 (retroactive).

Explanation of State Expenditures: *Attorney General:* If a party has a cause of action as a result of the findings of the General Assembly, cost for the Attorney General and any involved state agency to defend the state may increase.

Family and Social Services Administration (FSSA): The bill would repeal a provision that authorizes the FSSA to apply for a waiver to expand the Indiana Medicaid Program. This provision may free up resources of the FSSA that have been used to support the Medicaid waiver application that proposed to use the Healthy Indiana Plan high-deductible model to expand the Medicaid program under the provisions of the ACA.

Department of State Revenue (DOR): The Department of State Revenue will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes made by the bill. The DOR's current level of resources should be sufficient to implement these changes.

Health Care Exchange: The bill would prohibit the state from establishing a state-operated or not-for-profit health care exchange and from purchasing any products from such an exchange.

<u>Explanation of State Revenues:</u> <u>*Deduction for PPACA Penalty:*</u> The individual adjusted gross income (AGI) deduction provided for penalties paid by uninsured Indiana taxpayers under the Patient Protection and Affordable Care Act (PPACA) would reduce revenue deposited in the state General Fund beginning in FY 2016. The revenue loss is indeterminable. The revenue loss depends on several factors including the number of Indiana residents that are required to pay a federal penalty under PPACA, their income, and their family size.

Under PPACA, the penalties for not having qualified health insurance coverage in 2014 will be paid by nonexempt taxpayers while filing their 2014 federal tax returns in 2015. The AGI deduction provided in the bill equal to those penalties would be claimed by taxpayers when they file their 2015 Indiana income tax return in 2016. Taxpayers that are uninsured in 2015 and years thereafter will claim the deduction in the year following the year in which they pay the federal penalty.

The penalty for each year under PPACA is equal to the greater of: (1) a specified flat dollar amount; or (2) a specified share of the uninsured individual's household income up to specified maximum limits. Assuming that between 100,000 to 300,000 Indiana taxpayers pay a flat amount as a penalty in 2014 and years thereafter, the state fiscal impact could be between \$0.3 M to \$0.9 M in FY 2016, \$1 M to \$3 M in FY 2017 and \$2 M to \$6.2 M in FY 2018. The increase over this period depends on the escalation in the penalty. The revenue loss in years thereafter would depend on several factors including the impact of the rate of inflation on the level of penalty.

Additional Information: The PPACA requires most legal residents in United States to either maintain the specified minimum essential health coverage or pay a penalty. An individual is exempt from paying the penalty if the individual: (1) holds certain specified religious beliefs; or (2) is an undocumented immigrant; (3) is incarcerated; (4) is a member of an Indian tribe; (5) has income below specified minimum thresholds; or (6) is covered under a qualified health plan.

The penalty under the PPACAis the greater of :

(1) \$95 per adult and \$47.50 per child (up to \$285 for a family) or 1% of the taxpayer's household income in excess of the applicable personal exemption and standard deduction for tax year 2014.

(2) \$325 per adult and \$162.50 per child (up to \$975 for a family) or 2% of the taxpayer's household income in excess of the applicable personal exemption and standard deduction for tax year 2015.

(3) \$695 per adult and \$347.50 per child (up to \$2,085 for a family) or 2.5% of the taxpayer's household income in excess of the applicable personal exemption and standard deduction for tax year 2016.

The flat penalty level is adjusted for cost of living for years after 2016. The penalty after 2016 is the greater of the adjusted flat penalty level or 2.5% of the taxpayer's household income in excess of the applicable personal exemption and standard deduction for the tax year. The penalty is pro-rated by the number of months the taxpayer is without coverage. The penalty cannot be greater than the national average premium for qualified health plans which has a bronze level of coverage.

In the short run, due to the increase in the statutory minimum level of penalty, the number of taxpayers paying the penalty is estimated to decrease, whereas the total amount of penalty is estimated to increase. Based on published data on insurance coverage it is assumed that 16% of those paying the penalty will be below 18 years of age.

Explanation of Local Expenditures: The bill would prohibit local units of government from establishing a health care exchange for the purchase of health insurance and from purchasing insurance products from an exchange established by a not-for-profit corporation. The bill is silent with regard to the purchase of products from a federal exchange.

Explanation of Local Revenues: State taxable income, which would be reduced by the provisions in the bill, is also the basis of calculating the local option income tax (LOIT). Based on an average LOIT rate of 1.4%, and the assumptions specified in the state revenue impact section, the bill could result in reducing statewide LOIT tax collections between $0.1 M to $0.4 M in FY 2016, $0.4 M to $1.2 M in FY 2017 and $0.9 M to $2.6 M in FY 2018. The revenue loss in future fiscal years would depend on several factors including the impact of the rate of inflation on the level of penalty.

State Agencies Affected: Department of Insurance; FSSA; Indiana State Department of Health; DOR; Attorney General's Office

Local Agencies Affected: All local units of government.

Information Sources: Section 5000A(f) Internal Revenue Code
http://www.law.cornell.edu/uscode/text/26/5000A ;
Kaiser Family Foundation http://kff.org/other/state-indicator/total-population/;
Congressional Budget Office,
http://www.cbo.gov/sites/default/files/cbofiles/attachments/44190_EffectsAffordableCareActHealthInsuranceCoverage_2.pdf

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